



UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:

D & R Livestock, Inc.
and Donnie Richards

Respondents

P & S Docket No. D-97-0020

Decision

This proceeding was instituted under the Packers and Stockyard Act (7 U.S.C. §181 et. seq.) by a complaint filed by the Acting Deputy Administrator, Packers and Stockyards Programs, Grain Inspection and Packers and Stockyards Administration, United States Department of Agriculture, alleging that the respondents willfully violated the Act and the regulations issued thereunder. This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. §1.138).

The respondents admit the jurisdictional allegations in paragraph I of the complaint and specifically admit that the Secretary has jurisdiction in this matter, neither admit nor deny the remaining allegations, waive oral hearing and further procedure, and consent and agree, for the purpose of settling this proceeding and for such purpose only, to the entry of this decision.

The complainant agrees to the entry of this decision.

Findings of Fact

(1) D& R Livestock, Inc., hereinafter referred to as respondent D & R Livestock, is a corporation organized and existing under the laws of the state of Tennessee. Its business mailing address is P.O. Box 598, Sparta, Tennessee.

(2) Respondent D & R Livestock, at all times material herein, was engaged in the business of a dealer buying and selling livestock in commerce for its own account.

(3) Respondent D & R Livestock, at all times material herein, was registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for its own account.

(4) Donnie D. Richards, hereinafter referred to as respondent Richards, is an individual whose mailing address is P.O. Box 598, Sparta, Tennessee 38583.

(5) Respondent Richards is, and at all times material herein was:

- (a) president of respondent D & R Livestock;
- (b) owner of 100% of the stock issue by respondent D & R Livestock;
- (c) responsible for the direction, management and control of the day-to-day business operations of respondent D & R Livestock;
- (d) engaged in the business of a dealer buying and selling livestock in commerce for his own account; and
- (e) registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for his own account.

Conclusions

The respondents having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

Order

Respondents Donnie Richards and D & R Livestock, Inc., their agents and employees, directly or through any corporate or other device, in connection with their activities subject to the Packers and Stockyards Act, shall cease and desist from:

1. Issuing checks in payment for livestock purchases without maintaining sufficient funds on deposit and available in the account upon which such checks were drawn to pay such checks when presented;

2. Failing to pay, when due, the full purchase price of livestock; and

3. Failing to pay the full purchase price of livestock.

Respondents shall keep and maintain accounts, records and memoranda which fully and accurately disclose the true nature of all transactions involved in their business subject to the Packers and Stockyards Act, including, but not limited to, (a) livestock purchase and sales invoices, (b) load make-up sheets and (c) accounts of purchase for buying on commission purchases.

Respondents Donnie Richards, as alter ego of D & R Livestock, Inc. and D & R Livestock, Inc. are hereby suspended as registrants under the Act for a period of five (5) years. Provided, however, that upon application to Packers and Stockyards Programs a supplemental order may be issued terminating the suspension of the respondents at any time after 7 months upon demonstration by respondents that the livestock sellers identified by the complaint in this proceeding have been paid in full and provided further, that this order may be modified upon application to Packers and Stockyards Programs to permit the individual respondent's salaried employment by another registrant or a packer after the expiration of the 7 month period of suspension and upon demonstration of circumstances warranting modification of the order.

The provisions of this order shall become effective on the sixth day after service of this order on the respondents.

Copies of this decision shall be served upon the parties.

D & R Livestock, Inc.

By:

D & R Livestock, Inc.

President

Title

Donnie Richards

Donnie Richards

Respondent

Kimberly D. Hart

KIMBERLY D. HART

Attorney for Complainant

Issued this 25 day of March 1998

John A. Berk

Administrative Law Judge